

REMARKS

Claims 1-8, 11-18 and 20-35 are pending in this application, with claims 1, 27-30, 33 and 34 being independent. Claims 1, 28, 30, 33 and 34 have been amended, and claim 35 has been added. No new matter has been added.

Applicants wish to thank Examiner Leubecker for participating in a telephonic interview with applicants' representatives on July 14, 2006. During that interview, agreement was reached as to the allowability of claims 1, 28, 30 and 33 over the references relied upon by the Examiner in rejecting the claims conditioned on applicants submitting agreed upon amendments to these claims. The Examiner also agreed to withdraw the current rejections of claims 27 and 29. Examiner Leubecker also indicated that he needed to reconsider the rejection of claim 34. The substance of the interview is incorporated herewith.

Rejections Based on Glowa

Independent claim 1, along with its dependent claims 2-8, 11-14 and 20-23, and independent claims 27-30 and 33 have been rejected as being anticipated by Glowa (U.S. Patent No. 6,086,542).

Applicants have amended independent claim 1, per the Examiner's suggestion, to recite "a sheath removably coupled to the inner portion," with the understanding reached with the Examiner that the term "coupled," in this context, does not require that the sheath and inner portion be fastened, joined, or linked. As stated previously, Glowa does not describe or suggest the recited sheath. Rather, outer tubular member 60 (which the Examiner equates to the recited sheath) is fixedly joined at 64 with inner tubular member 30 (which the Examiner equates to the recited inner portion). See Glowa at Fig. 2 and col. 4, lines 8-10. Applicants

For at least this reason, applicants request reconsideration and withdrawal of the rejection of claim 1 and its dependent claims 2-8, 11-14 and 20-23.

Independent claim 27 recites a method for performing a surgical procedure at a body site that includes, among other features, "connecting a light source to an optical channel defined by the inner portion." As acknowledged by the Examiner during the telephonic interview, Glowa does not describe or suggest this feature. In particular, tubular member 30 of Glowa (which the Examiner equates to the recited inner portion) does not define an optical channel.

For at least this reason, applicants request reconsideration and withdrawal of the rejection of claim 27.

Independent claim 28, as amended, recites, among other features, a continuous flow endoscope defining an optical channel and an operative channel, “wherein the optical channel is positioned outside the operative channel.” Independent claim 33, as amended, recites, among other features, an inner portion defining an operative channel and “an optical channel, the optical channel being positioned outside the operative channel.” Glowa does not describe or suggest an optical channel that is positioned outside, i.e., not within, an operative channel. Rather, the optical channel in arthroscope 36 (which the Examiner equates to the recited optical channel) is positioned within annular channel 42 (which the Examiner equates to the recited operative channel) when arthroscope 36 is positioned within tubular member 30, as asserted by the Examiner in support of the rejections of claims 28 and 33.

For at least this reason, applicants request reconsideration and withdrawal of the rejection of claims 28 and 33.

Independent claim 29 recites an endoscopic device including, among other features, a sheath and “a pressure-sensing port that maintains coupling between the pressure sensor and the pressure-sensing channel as the pressure-sensing port is rotated relative to the sheath and about a longitudinal axis of the sheath.” As acknowledged by the Examiner during the telephonic interview, Glowa does not describe or suggest a pressure-sensing port capable of being rotated “relative to the sheath.” In particular, Glowa does not describe or suggest that port 18 (which the Examiner equates to the recited pressure-sensing port) may be rotated relative to outer tubular member 60 (which the Examiner equates to the recited sheath).

For at least this reason, applicants request reconsideration and withdrawal of the rejection of claim 29.

Independent claim 30, as amended, recites an endoscopic device that includes, among other features, an “inner portion including an alignment element” and a “sheath including an alignment element that aligns with the alignment element of the inner portion such that in use, when assembling the inner portion and the sheath, the alignment elements align the inner portion and the sheath” (emphasis added). As discussed during the interview, the recited sheath includes an alignment element that allows it to be aligned with the alignment element of the inner portion

when assembling the inner portion and the sheath in use of the endoscopic device. In contrast and as acknowledged by the Examiner during the telephonic interview, rather than including alignment elements that align the inner and outer tubular members of Glowa when assembling the members in use, Glowa's inner tubular member 30 and outer tubular member 60 are fixedly joined at 64.

For at least this reason, applicants request reconsideration and withdrawal of the rejection of claim 30.

Rejections Based on Vukovic

Independent claim 1 and its dependent claims 2-8, 11-17 and 20-26; independent claims 28, 29 and 33; and independent claim 30 and its dependent claims 31 and 32 have been rejected as being anticipated by Vukovic (U.S. Patent No. 4,369,768).

Independent claims 1 and 30, as amended, each recite an endoscopic device including, among other features "a sheath ...surrounding the inner portion to define a pressure-sensing channel and a fluid channel providing a path for fluid to or from the body site... wherein the pressure-sensing channel and the fluid channel are completely segregated to limit fluid communication between the channels." As acknowledged by the Examiner during the telephonic interview, Vukovic's upper irrigation channel 38 (which the Examiner equates to the recited pressure-sensing channel) and lower irrigation channel 38 (which the Examiner equates to the recited fluid channel) are not completely segregated, but rather join to form one channel fed through a common valve 34.

For at least this reason, applicants request reconsideration and withdrawal of the rejection of claim 1 and its dependent claims 2-8, 11-17 and 20-26, and claim 30 and its dependent claims 31 and 32.

Regarding independent claim 28, in Vukovic, instrument channel 44, which the Examiner equates to the recited operative channel, is not configured to receive an operative device while providing an inflow path for receiving fluid from a fluid source and delivering fluid to a body site, as now claimed. Rather, once instrument channel 44 receives an instrument 15, entryway 18A provides "a fluid tight connection" (Vukovic, col. 3, lines 1 and 2) with the instrument that

prevents instrument channel 44 from providing a path for receiving fluid from a fluid source and delivering fluid to a body site.

For at least this reason, applicants request reconsideration and withdrawal of the rejection of claim 28.

Independent claim 29, as amended, recites an endoscopic device including, among other features, a sheath and “a pressure-sensing port that maintains coupling between the pressure sensor and the pressure-sensing channel as the pressure-sensing port is rotated relative to the sheath and about a longitudinal axis of the sheath.” As acknowledged by the Examiner during the telephonic interview, Vukovic does not describe or suggest a pressure-sensing port capable of being rotated “relative to the sheath.” In particular, as stated previously, valve 34 of Vukovic is connected with upper irrigation channel 38 (which the Examiner equates to the recited pressure-sensing channel) presumably through a port (though the Examiner has not identified any such port). However, Vukovic does not describe or suggest that this presumed port may be rotated relative to sheath 30 (which the Examiner equates to the recited sheath).

For at least this reason, applicants request reconsideration and withdrawal of the rejection of claim 29.

Independent claim 33, as amended, recites an “operative channel configured to receive an operative device while providing a path for at least receiving fluid from a fluid source and delivering fluid to the body site.” For at least the reasons described above for claim 28, applicants request reconsideration and withdrawal of the rejection of claim 33.

Independent claim 34, which previously corresponded to dependent claim 18 rewritten in independent form, has been amended to delete the feature “a second rim portion attached to the first cylindrical portion and having a second outer diameter larger than the first outer diameter.” This feature was recited in intervening dependent claim 17 and is now recited in new dependent claim 35, which depends from claim 34. Applicants request allowance of claims 34 and 35 at least because the cited art fails to describe or suggest the feature “the fluid channel being bounded between the first cylindrical portion and the sheath.”

Applicants submit that all claims are in condition for allowance.

Applicants do not acquiesce in the Examiner’s characterizations of the art. For brevity and to advance prosecution, however, applicants may have not addressed all characterizations of

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the art and reserve the right to do so in further prosecution of this or a subsequent application. The absence of an explicit response by the applicants to any of the examiner's positions does not constitute a concession of the examiner's positions. The fact that applicant's comments have focused on particular arguments does not constitute a concession that there are not other arguments for patentability of the claims. All of the dependent claims are patentable for at least the reasons given with respect to the claims on which they depend.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: _____

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Roberto J. Devoto
Reg. No. 55,108

Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500
Telephone: (202) 783-5070
Facsimile: (202) 783-2331